

BEFORE LINDA McCULLOCH, STATE SUPERINTENDENT OF PUBLIC INSTRUCTION  
STATE OF MONTANA

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RANDY & MICHELLE MEIDINGER,	)	
	)	
Appellants,	)	OSPI 309-06
	)	
v.	)	<b>DECISION AND ORDER</b>
	)	
BOARD OF TRUSTEES, ARLEE JOINT	)	
SCHOOL DISTRICT NO. 8,	)	
	)	
Respondent.	)	
	)	
	)	

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Having reviewed the record and considered the parties' briefs, the Superintendent of Public Instruction issues the following Decision and Order.

**DECISION AND ORDER**

The October 26, 2006 Jurisdiction Order by the Lake County Superintendent of Schools is hereby AFFIRMED.

**PROCEDURAL HISTORY**

The Board of Trustees, Arlee Joint School District No. 8, hereinafter "district" investigated allegations of inappropriate teacher conduct and on August 28, 2006 held disciplinary hearings in closed session pursuant to Section 2-3-203, MCA. On September 5, 2006, Randy and Michelle Meidingeer, hereinafter "Appellants" filed a Notice of Appeal with the Lake County Superintendent of Schools asking the district to reverse their decision with respect to the discipline of the teachers involved. The district moved to dismiss the appeal on the grounds that it is not a contested case and the County Superintendent lacks jurisdiction. On October 26, 2006 the Lake County Superintendent issued his decision that the issue on appeal

1 did not constitute a contested case and therefore he had no jurisdiction. On November 16, 2006  
2 Appellants filed a Notice of Appeal with the State Superintendent of Public Instruction.

### 3 **ISSUES ON APPEAL**

4 The issue on appeal is whether this is a contested case over which the County  
5 Superintendent has jurisdiction.

### 6 **STANDARD OF REVIEW**

7 The State Superintendent's review of a county superintendent's decision is based on the  
8 standard of review of administrative decisions established by the Montana Legislature in Mont.  
9 Code Ann. §2-4-704 and adopted by the State Superintendent in Admin. R. Mont. 10.6.125.  
10 Findings of fact are reviewed under a clearly erroneous standard and conclusions of law are  
11 reviewed to determine if the correct standard of law was applied. *Harris v. Trustees, Cascade*  
12 *County School Districts No. 6 and F, and Nancy Keenan*, 241 Mont. 274, 277, 786 P.2d 1164,  
13 1166 (1990) and *Steer, Inc. v. Dept. of Revenue*, 245 Mont. 470, at 474, 803 P.2d 601, 603  
14 (1990).  
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16 The State Superintendent may reverse or modify the county superintendent's decision if  
17 substantial rights of the Appellant have been prejudiced because the findings of fact, conclusions  
18 of law and order are (a) in violation of constitutional or statutory provisions; (b) in excess of the  
19 statutory authority; (c) made upon unlawful procedure; (d) affected by other error of law; (e)  
20 clearly erroneous in view of the reliable, probative and substantial evidence on the whole record;  
21 (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise  
22 of discretion; or (g) affected because findings of fact upon issues essential to the decision were  
23 not made although requested. Admin. R. Mont. 10.6.125(4).  
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## FINDINGS OF FACT

1. Appellants informed the District of alleged inappropriate conduct by two district employees while on a school-sponsored trip with students enrolled in the District's schools.

Appellants' daughter was one of the students on the trip.

2. The District investigated the allegations.

3. On August 28, 2006 the District held disciplinary hearings regarding the conduct of the employees, which hearings were held in closed executive session pursuant to Section 2-3-203, MCA.

4. Following the closed executive session, the board voted to discipline the employees.

5. Appellants were not involved in the disciplinary hearings nor was any board action taken against them.

6. Appellants filed a Notice of Appeal with the Lake County Superintendent of Schools on September 5, 2006 seeking to reverse the disciplinary decision made by the board at the August 28, 2006 meeting.

7. The District moved to dismiss the appeal for lack of jurisdiction.

8. Lake County Superintendent Gale Decker issued a Jurisdiction Decision on October 26, 2006 wherein he determined that the issues on appeal did not constitute a contested case and that therefore he did not have jurisdiction to hear the matter.

9. Appellants filed a Notice of Appeal with the State Superintendent of Public Instruction on November 16, 2006 alleging that the County Superintendent does have jurisdiction over the issues on appeal.

1 **MEMORANDUM OPINION**

2 The first duty of the County Superintendent, upon receiving an appeal is to determine if  
3 the appeal is a contested case and whether or not he/she has jurisdiction over the issues on  
4 appeal. ARM 10.6.104

5 The Montana Supreme Court has held that "a county superintendent's jurisdiction over  
6 any appeal from a decision of a board of trustees is limited to those instances involving a  
7 'contested case.'" *Dupuis v. Board of Trustees, Ronan School District*, 2006 MT 3, 128 P.3d  
8 1010.

9 In order to determine if the County Superintendent has jurisdiction to hear a particular  
10 case the County Superintendent must determine whether or not the case is a "contested case"  
11 under Montana law. Montana administrative rule defines "contested case" as "any proceeding in  
12 which a determination of legal rights, duties or privileges of a party is required by law to be  
13 made after an opportunity for hearing." ARM 10.6.102 The State Superintendent held in *Schultz*  
14 *v. Arlee School District #8-J*, OSPI 256-95 that "for a County Superintendent to have  
15 jurisdiction to hold a hearing a petitioner must have a constitutional, statutory or case law grant  
16 of a hearing right."

17 In the present case Appellants are not a party for which a determination of legal rights,  
18 duties or privileges are required to be made after an opportunity for a hearing. Appellants were  
19 not parties to the decision made by the District in disciplining the teachers. Although  
20 Appellants did not agree with the decision of the board, they did not have a legal interest that  
21 was affected by the board's decision. "A mere disagreement with a school district does not  
22 automatically entitle an aggrieved party to a contested case hearing to resolve the disagreement."  
23 *Dupuis v. Board of Trustees, Ronan School District*, 2006 MT 3, 128 P.3d 1010 (2006).

1 In order to have standing to appeal, the Appellants have to show that they are entitled to  
2 have the County Superintendent decide the issues on appeal. The Montana Supreme Court has  
3 held:

4 "In essence the question of standing is whether the litigant is entitled to have the court  
5 decide the merits of the dispute or of particular issues." [citing cases] "...when standing is placed  
6 in issue in a case, the question is whether the person whose standing is challenged is a proper  
7 party to request an adjudication of a particular issue and not whether the issue itself is  
justiciable." *Helena Parents Commission, v. Lewis and Clark County Commissioners*, (1996)  
277 Mont. 367, 922 P.2d 1140.

8 The Supreme Court has stated in several cases that to establish standing:

9 "(1) The complaining party must clearly allege past, present or threatened injury to a  
10 property or civil right; and (2) the alleged injury must be distinguishable from the injury to the  
11 public generally, but the injury need not be exclusive to the complaining party." *Sanders v.*  
*Yellowstone County*, 915 P.2d 196, 53 St. Rep. 305.

12 Appellants have not alleged a past, present or threatened injury to their property or civil  
13 rights. Therefore, the State Superintendent finds that Appellants lack standing to bring this  
14 action, it is not a contested case and hereby affirms the County Superintendent's Jurisdiction  
15 Order.

16 DATED this 9th day of April, 2007.

17 /s/ Linda McCulloch  
18 Linda McCulloch  
19 Superintendent of Public Instruction  
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**CERTIFICATE OF SERVICE**

THIS IS TO CERTIFY that on this 10<sup>th</sup> day of April, 2007, I caused a true and exact copy of the foregoing DECISION AND ORDER to be mailed, postage prepaid, to the following:

**Randy and Michelle Meidinger  
24905 Graywolf Road  
Arlee MT 59821**

**Debra A. Silk  
Tony C. Koenig  
Montana School Boards Association  
One South Montana  
Helena MT 59601**

**Gale Decker  
Lake County Superintendent of Schools  
106 4<sup>th</sup> Avenue East  
Polson MT 59860**

/s/ Catherine K. Warhank  
CATHERINE K. WARHANK  
Chief Legal Counsel